

E-filed on August 31, 2010

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6 Counsel for the USACM Liquidating Trust  
 7

## UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA

8 In re:  
 9 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

Case Nos.:  
 BK-S-06-10725-LBR  
 BK-S-06-10726-LBR  
 BK-S-06-10727-LBR  
 BK-S-06-10728-LBR  
 BK-S-06-10729-LBR

10 In re:  
 11 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

JOINTLY ADMINISTERED  
Chapter 11 Cases

12 In re:  
 13 USA CAPITAL DIVERSIFIED TRUST DEED FUND,  
 LLC,  
 Debtor.

Judge Linda B. Riegle

14 In re:  
 15 USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 Debtor.

16 In re:  
 17 USA SECURITIES, LLC,  
 Debtor.

**USACM LIQUIDATING TRUST  
AND USA CAPITAL  
DIVERSIFIED TRUST DEED  
FUND, LLC'S EX PARTE  
MOTION FOR ORDER  
SHORTENING TIME TO HEAR  
MOTION FOR APPROVAL OF  
SETTLEMENT PURSUANT TO  
RULE 9019 OF THE FEDERAL  
RULES OF BANKRUPTCY  
PROCEDURE**

18 Affects:  
 19  All Debtors  
 USA Commercial Mortgage Company  
 USA Capital Realty Advisors, LLC  
 USA Capital Diversified Trust Deed Fund, LLC  
 USA Capital First Trust Deed Fund, LLC  
 USA Securities, LLC

23  
 24 The USACM Liquidating Trust (the "USACM Trust") and USA Capital Diversified Trust  
 25 Deed Fund, LLC ("DTDF") hereby file this Ex Parte Motion for Order Shortening Time to Hear  
 26

1 Motion for Approval of Settlement Pursuant to Rule 9019 of the Federal Rules of Bankruptcy  
2 Procedure (the “Motion”) and, in support thereof, respectfully state the following:

3       1. On or about April 12, 2008, DTDF commenced Adversary Proceeding Number  
4 08-01132 in this Court, entitled *USA Capital Diversified Trust Deed Fund, LLC v. Stanley E.*  
5 *Fulton* (the “Fulton Litigation”).

6       2. On September 4, 2009, this Court transferred the Fulton Litigation to the United  
7 States District Court for the District of Nevada for a final ruling on summary judgment and for a  
8 jury trial. The Fulton Litigation was docketed in the District Court under Case No. 2:09-CV-  
9 1946-RLH-LRL.

10      3. Trial in the Fulton Litigation was scheduled to begin in the District Court on June  
11 28, 2010. Prior to the start of trial, however, the parties negotiated a settlement and announced  
12 their settlement to the District Court on June 23, 2010. During this June 23<sup>rd</sup> hearing, Fulton’s  
13 counsel requested that DTDF seek an expedited hearing in this Court to obtain approval of the  
14 settlement. DTDF’s counsel indicated that he would be willing to request such a hearing. The  
15 District Court then ordered DTDF’s counsel to seek an expedited hearing on the Rule 9019  
16 motion and to file the necessary pleadings for the District Court to dismiss the Fulton Litigation  
17 by July 30, 2010 (the “Dismissal Deadline”).

18      4. Negotiations over the proposed settlement agreement took longer than anticipated.  
19 The parties were not able to finalize and execute the proposed settlement agreement until on or  
20 about July 27, 2010.

21      5. On July 28, 2010, the parties filed a Joint Status Report and Request to  
22 Extend Deadline to Close Case, requesting that the Dismissal Deadline be extended to August 31,  
23 2010. The District Court granted that request in an order entered on July 30, 2010.

24      6. Even though the parties had signed the settlement agreement, negotiations over the  
25 Rule 9019 motion and related documents took longer than anticipated. As a result, the parties  
26 intend to request that the District Court extend the Dismissal Deadline to September 30, 2010.

1       7. On August 31, 2010, contemporaneous with the filing of this Motion, the USACM  
 2 Trust and DTDF filed their Motion for Approval of Settlement Pursuant to Rule 9019 of the  
 3 Federal Rules of Bankruptcy Procedure (the “Settlement Motion”) (DE #8155).

4       8. Per the District Court’s order, the USACM Trust and DTDF seek an order from  
 5 the Court shortening time to hear the Settlement Motion and setting it for hearing on the Court’s  
 6 calendar at the earliest available date on the Court’s calendar. Without an order shortening time,  
 7 the USACM Trust and DTDF would suffer prejudice by not complying with the order of the  
 8 District Court in the Fulton Litigation.

9       9. The Court can shorten notice pursuant to Federal Rule of Bankruptcy Procedure  
 10 9006(c)(1) and Bankruptcy Local Rule 9006(a).

11      10. Stanley Fulton has consented to the entry of an order shortening time.

12     WHEREFORE, the USACM Trust and DTDF respectfully request that this Court enter  
 13 the attached order shortening time to hear the Settlement Motion and setting a hearing on the  
 14 Settlement Motion at the earliest available date for the Court.

15     Respectfully submitted the 31<sup>st</sup> day of August 2010.

16     **DIAMOND MCCARTHY LLP**

17     By: /s/ Eric D. Madden  
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24     *Counsel for USACM Liquidating Trust*

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2                   **CERTIFICATE OF SERVICE**  
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4                   I hereby certify that on the 31<sup>st</sup> day of August 2010, I caused to be served a true and  
5 correct copy of the foregoing **USACM LIQUIDATING TRUST AND USA CAPITAL**  
**DIVERSIFIED TRUST DEED FUND, LLC'S EX PARTE MOTION FOR ORDER**  
**SHORTENING TIME TO HEAR MOTION FOR APPROVAL OF SETTLEMENT**  
**PURSUANT TO RULE 9019 OF THE FEDERAL RULES OF BANKRUPTCY**  
**PROCEDURE** by electronic transmission to the USACM Post-Confirmation Service List  
6 Dated March 31, 2009, and by electronic transmission and United States Mail to counsel for  
7 Defendant, Timothy R. O'Reilly, O'Reilly Law Group, LLC, 325 South Maryland Parkway,  
8 Las Vegas, NV 89101-5300, [tor@oreillylawgroup.com](mailto:tor@oreillylawgroup.com), and Steven J. Katzman, Beinert,  
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11                 /s/ Catherine A. Burrow  
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13                 Senior Paralegal  
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